



11-05-02

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PATENT
#11

Practitioner's Docket No. 1001-053

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Michael J. Czaplicki et al.

Application No.: 09/847,252

Group No.: 1711

Filed: 05/02/2001

Examiner: Morton Foelak

For: TWO COMPONENT (EPOXY/AMINE) STRUCTURAL FOAM-IN-PLACE MATERIAL

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Commissioner for Patents
Washington, D.C. 20231

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PETITION UNDER (37 C.F.R. § 1.313(c))
WITHDRAWAL FROM ISSUE—ISSUE FEE PAID

OFFICE OF PETITIONS

1. Applicants petition that the above identified application be withdrawn from issue. The issue fee was paid on August 27, 2002.

2. Reason for withdrawal from issue:

The reason applicant seeks withdrawal from issue of this application is:

a. Applicants have been made aware of new prior art, which was cited in an International Search Report recently received in an International Application No. PCT/US02/03133 corresponding to the above-referenced application. The International Search Report and newly cited prior art is enclosed herewith for review by the Examiner pursuant to 37 CFR 1.56(a)(1).

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is **mandatory**;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

[x] deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Washington D.C. 20231

37 C.F.R. § 1.8(a)

G with sufficient postage as first class mail.

37 C.F.R. § 1.10*

[x] as "Express Mail Post Office to Addressee"
Mailing Label No. **EV215087919US**

TRANSMISSION

G facsimile transmitted to the Patent and Trademark Office, (703) _____

Signature

Date: 11/04/02

Roni L. Masquelier
(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Petition under 37 C.F.R. § 1.313(c) Withdrawal From Issue—Issue Fee Paid—page 1

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01 FC:1801

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b. On August 12, 2002, Applicants received a Notice of Allowance and Issue Fee Due from the United States Patent and Trademark Office in the above-referenced patent application.

c. Applicants paid the issue fee via Express Mail on August 27, 2002.

d. On October 23, 2002, the International Searching Authority of the PCT mailed the results of the International Search Report for the corresponding PCT application. The Search Report was received in the offices of Applicants' Attorneys of Record on October 25, 2002. The response date, if any, is due on December 23, 2002. The date was properly docketed by the attorney's office and received by me for review on or about October 28, 2002. The Issue Notification of Applicants' above-referenced patent application is yet to be received.

f. The International Search Report cited USPN 4,995,545, USPN 5,783,272 and JP4059820, I determined that these three references had never been cited by the Examiner or Applicants during prosecution of the corresponding US patent application. USPN 4,995,545 to Wycech, however, is a divisional of USPN 4,923,902 to Wycech that was already cited and is believed to disclose the same thing. Each of the references was cited by the PCT based on the claims as originally presented to the USPTO. These claims have since been amended in the above-referenced patent application, and such amendment placed the claims in condition for allowance. The citation of the new references by the PCT is based on claims broader than those allowed by the Examiner in the US. In the opinion of the undersigned, the claims, as presently allowed, in the application are patentable over the newly cited references.

g. Applicants' attorney respectfully requests that this petition be granted under 37 CFR 1.313 (c)(2) to allow consideration of the cited references and to prevent any potential violation of 37 CFR 1.56. As set forth in the above paragraphs, such action is necessary based on a showing of good and sufficient reasons why withdrawal is necessary. The necessary fee set forth in 37 CFR 1.17(i) is enclosed herewith.

h. In addition to this petition, Applicants submit herewith a Request for Continued Examination and an Information Disclosure Statement with all appropriate fees as required. Applicants' will request in writing to credit the Issue Fee paid on August 27, 2002 upon receipt of a new Notice of Allowance.

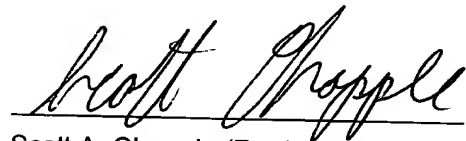
3. Petition fee (37 CFR § 1.17(i)):

Attached is a check for \$130.00.

Please charge Deposit Account 50-1097 for any additional fees that may be due by the filing of this paper.

A duplicate of this petition is attached.

Date: 11-4-02



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